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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/579,530 | 05/16/2006 | Quirin Sterner | PNL21552 | 8414 |

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STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON, DC 20036

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| EXAMINER |
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MCCALL, ERIC SCOTT

| ART UNIT | PAPER NUMBER |
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| 2855 | |

| MAIL DATE | DELIVERY MODE |
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| 12/12/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/579,530 | STERNER, QUIRIN | |
| | Examiner | Art Unit | |
| | Eric S. McCall | 2855 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 September 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 May 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date May 16, 2006.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

METHOD FOR DETERMINING ADDITIONAL FUEL CONSUMPTION IN A MOTOR VEHICLE AND METHOD FOR DISPLAYING ADDITIONAL FUEL CONSUMPTION

FIRST OFFICE ACTION ON THE MERITS

This action is in response to the Applicant's election dated Sep. 24, 2007.

DECLARATION

The declaration is defective because the declaration is not signed by the inventor. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

SPECIFICATION

The specification is objected to because the specification fails to set forth the section headings as per 37 CFR 1.77(b).

The Examiner also points out that the specification makes reference to the claims. Thus, the Applicant is reminded that any amendment to the claims may require a corresponding amendment to the specification.

ELECTION REQUIREMENT

The Applicant has elected Group I with traverse arguing that claims 7-10, Group II, simply constitute “additional steps of the method recited in the parent claims”. The Examiner disagrees. The Examiner first points out that Group II of the restriction requirement was identified as claims 8 and 9. The Applicant has since amended claim 10 to depend from claim 8. Therefore, nonelected Group II consists of claims 8-10. Claim 7 was identified as belonging to Group I not Group II.

The Applicant argues that the claims of Group II are simply additional steps of the parent claims but the Examiner points out that claim 8 is an independent claim with claims 9 and 10 depending therefrom. So it is unclear how the Applicant can argue that the claims of Group II are additional steps of the parent claims when the claims do not depend from any claim outside the group.

Claim 1 is an independent claim with claims 1-7 constituting Group I. Claim 8 is an independent claim with claims 8-10 constituting Group II. The features of Group II are simply not required in Group I and vice-versa. Thus, the traversal has not been found to be persuasive, and the requirement is still deemed proper and is therefore made FINAL.

CLAIMS

35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention for the following reasons:

Claims 2-7 refer to the process as claimed in claim 1, however claim 1 is directed to a method and not a process.

Claim 3, the terms “it” (line 2) and “its” (line 4) are indefinite.

Claim 5, the phrase “the characteristic fields” lacks antecedent basis and is thus indefinite as to what is being referred to.

Claim 7, the phrase “the generator model” lacks antecedent basis and is thus indefinite.

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by the Applicant's admitted prior art of Barske (5,336,932).

With respect to claim 1, Barske suggests a method for determining the fuel consumption in a motor vehicle with an internal combustion engine and a generator which is driven by the internal combustion engine, comprising

determining additional fuel consumption which is produced by an electrical consumer that is connected to the generator (col. 5, lines 1-21),
at least one current value of the generator mechanical power input being taken into account for determining the fuel consumption (col. 6, lines 37-44).

With respect to claims 2 and 3, Barske sets forth that the monitoring of power discharging from the battery, and thus inputting into the generator, is continuous and as such "at different times" and when an "electrical consumer is connected" as claimed.

With respect to claim 5, Barske suggests determining electrical power input by means of characteristic field values as claimed (Fig. 1).

Allowable Subject Matter

Claims 4, 6, and 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims because the prior art fails to teach or suggest the claimed subject matter of each claim.

CITED DOCUMENTS

The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record at the time of this office action.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall
Primary Examiner
Art Unit 2855